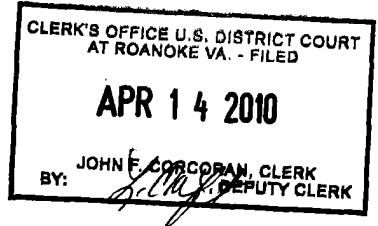


**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**



In accordance with the accompanying memorandum opinion, it is hereby

**ADJUDGED AND ORDERED**

that petitioner's motion, which the court construed and filed as a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, is **DISMISSED** without prejudice for failure to exhaust state court remedies, and this action is stricken from the active docket of the court. Because the defendant has not made the requisite showing of denial of a substantial right related to this ruling, a certificate of appealability, pursuant to 28 U.S.C. § 2253(c), is **DENIED**.

ENTER: This 14<sup>th</sup> day of April, 2010.

Sam C. Conrad  
United States District Judge